

REMARKS

Claims 1-34 are pending in this application.

Claims 1-34 are rejected.

The office action dated April 5, 2007 indicates that claims 1-33 are rejected under 35 USC §101 for reciting nonstatutory subject matter. Two reasons are given: (1) claims 1-33 recite a purely mathematical problem without any limitation to a practical application; and (2) claims 1-33 recite descriptive material (data structures or computer programs) that are not claimed as residing on computer readable medium. The '101 rejection is respectfully traversed.

Base claims 1 and 4 recite local color correction. So do base claims 15, 18 and 27. As explained in paragraph 1 of the specification, color correction is a practical application. These base claims also recite imaging processing methods, apparatus, and article. Therefore, they do not recite a purely mathematical problem.

Base claims 1, 4, 15 and 18 do not recite data structures or computer programs at all. Therefore, the second reason is irrelevant with respect to claims 1-26.

Claims 27-33 do indeed recite material that resides on a computer readable medium, since base claim 27 recites an article comprising computer memory encoded with instructions for instructing the processor to generate a cumulative histogram path length of the image. The instructions are stored in computer memory (a structural element), and they have a functional relationship with a processor (also a structural element), so they "permit the data structure's functionality to be realized, and is thus statutory (MPEP 2106.IV.B.1a)" (see the last sentence of section 1 of the office action).

The office action further indicates that claims 18-26 are rejected under 35 USC §112, first paragraph, for reciting a single means. In re Hyatt is cited. The rejection is respectfully traversed. These claims do not recite means-plus-function language. Claims 18-26 recite apparatus comprising a processor, which is a structure. The specification provides examples of this structure: paragraph 33 mentions a processor 1020 of an imaging device 1012; and paragraph 34 mentions a processor 1024 of a computer 1014. Also compare to claim 15, which does recite means-plus-function language. Clearly, In re Hyatt does not apply.

The office action further indicates that claims 1, 4-18, 21-27, 32 and 34 are rejected under 35 USC §112, second paragraph, as being indefinite because it is not clear what a cumulative histogram path length is and how it can be obtained.

The '112 rejection of claims 1, 4-18 and 21-27 is respectfully traversed because the specification clearly describes a cumulative histogram path length and how it is obtained. Attention is directed to paragraph 13, which describes how a cumulative histogram is obtained; and paragraph 15, which describes how a cumulative histogram path length (CHPL) is computed. Paragraphs 17-18 and Figures 2-6 provide an example of how a CHPL may be obtained. Figures 7-9 illustrate examples of using a CHPL.

The '112 rejections of claims 32 and 34 are also respectfully traversed, even though these claims contain typographical errors with respect to their dependency. The errors do not create any confusion. It is clear that claims 32 and 34 should dependent from claim 29 (which introduces "a plurality of different local color corrections"). These errors have been corrected in the amendments above. The examiner is thanked for pointing out the typographical errors in claims 32 and 34.

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An objection to the specification is respectfully traversed. The specification contains spacing that might be a bit irregular in some locations, but it is clear and readable.

The office action has not made any '102 or '103 rejections in view of the documents made of record. It is assumed that claims 1-34 contain allowable subject matter. Confirmation is respectfully requested.

The examiner is encouraged to contact applicant's attorney Hugh Gortler to discuss any issues that might remain.

Respectfully submitted,

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